

**PORTER TOWNSHIP
CASS COUNTY, MICHIGAN**

ORDINANCE NO. 03-08-22

ADOPTED: March 8, 2022

EFFECTIVE: April 15, 2022

AN ORDINANCE TO REGULATE BUBBLERS ON AND WITHIN THE INLAND LAKES IN PORTER TOWNSHIP, TO ADMINISTER THE ORDINANCE AND TO PROVIDE PENALTIES FOR VIOLATION OF THE ORDINANCE.

THE TOWNSHIP OF PORTER (the "Township"), CASS COUNTY, MICHIGAN ORDAINS:

**Section 1
TITLE**

This Ordinance shall be known and may be cited at the "Porter Township Bubbler Ordinance."

**Section 2
LEGISLATIVE FINDINGS; PURPOSE**

A. The Township Board for Porter Township, Cass County, Michigan finds and determines that it is necessary to adopt this Ordinance in order to protect the health, safety and welfare of Township residents, landowners and visitors; to prevent or avoid impairment of important irreparable natural resources, namely the inland lakes in Porter Township; to avoid or prevent impairment of property values of lands adjoining said inland lakes; to provide regulations which are designed to protect the public health, safety and welfare of the users of the lakes and winter navigability of the lakes; and to minimize or reduce the dangers from the use of bubblers in the lakes to persons using the lakes and riparian property owners.

B. The township Board expressly also finds all of the following:

1. Bubblers are dangerous to people who are present on the ice of inland lakes in the winter, including the following persons:
 - Snowmobilers and operators of ATVs.
 - Ice fisherpersons
 - Children playing
 - Pedestrians
 - Cross-country skiers
 - Other users of the otherwise frozen surface of inland lakes in Porter Township.

2. Bubblers interfere with the safe, convenient and reasonable navigability of inland lakes in Porter Township in the winter. Navigability in the winter includes such activities as cross-country skiing, snowmobiling, ATV use, ice fishing and walking.
3. Bubblers interfere with and have negative impacts upon the ecology and the environment of inland lakes in Porter Township, as frozen ice is necessary for the lake habitats to regenerate during the winter.
4. The use of bubblers on inland lakes in Porter Township during the winter is an inherently dangerous use and activity.
 - Visibility is often lower during winter conditions due to blowing snow, whiteouts, etc.
 - Open water or weakened ice is often difficult to detect at night.
 - Children are especially susceptible to the dangers of weak ice and open water.
 - Pets, particularly dogs, are susceptible to the dangers of weak ice and open waters in the winter

Section 3

DEFINITIONS

The following words, terms and language shall mean the following for purposes of this Ordinance:

A. “Bubbler” or “bubbling system or mechanism” means any machinery, motor, engine, item, equipment, mechanism, pump, compressor or compression system or any structural, mechanical or other system whether automatically or manually operated and which is designed, intended or functions to interrupt, stop or slow down the natural freezing of waterways or to break up any ice surrounding or adjacent to any boat, vessel, pier, dock or seawall as a means of a wet storage system for such boat or vessel, or protection for any dock, structure, pier or seawall, during the winter months. This definition also includes any system or apparatus that uses aerators, forced air, props, a pump, agitation or other motion to weaken or prevent ice within a lake.

B. “Inland lakes” or “Inland lakes in Porter Township” are Birch, Shavehead, Bair, Teasdale, Robbins, Carter, Spatterdock, Buck, Baldwin, Long, Coverdale, Indiana and Wood, as well as their waters, ice, shores and bottomlands.

C. “Marina” shall mean the commercial renting, lease or letting of three or more boat slips, places at a dock or pier, boat mooring spots, boat hoists or the equivalent, which shall also include any facilities related thereto. “Marina” shall also mean a waterfront property with one or more docks, piers, boat hoists or boat slips that are used by three or more different families (i.e., effectively a multi-family use). “Marina” shall also include a facility or area containing, having or serving three or more boat slips (or the equivalent) that are part of a commercial venture or an association or cooperative or that are condominiumized or the equivalent. “Marina” shall also mean a facility on a lake that offers service to the public or to

members of the marina (including members of an apartment complex, a yacht club, boating association, condominium association or similar association or group of people) for docking, boat launching and/or potentially other services related to boats and water craft. A “Marina” shall also mean any facility, use or activity defined or licensed as a “marina” by Michigan statute

D. “Eligible Property” shall mean a property on the shoreline of a lake within the Township which has a permanent pier (and not one that is removed seasonally)

Section 4 PROHIBITION ON BUBBLERS

Bubblers are not permitted on or in inland lake in Porter Township, Cass County, Michigan, except as follows;

The owner of an eligible property annually obtains a Bubbler Permit from Porter Township, pays the permit fee and maintains the bubbler in compliance with the permit and any regulations set forth by the township and EGLE or its successor agency.

Section 5 BUBBLER PERMIT

1. Application requirements. An owner of an eligible property shall annually make application for a Bubbler Permit from Porter Township. The application shall include:
 - a. A copy of the permanent pier permit issued by EGLE or its successor agency; and
 - b. A copy of a current bubbler permit issued by EGLE or its successor agency; and
 - c. A photograph of the property as viewed by the road; and
 - d. A photograph of the pier showing its location relative to the property.
 - e. An engineering report describing the Bubbler system and its location relative to the pier and the property and location of signage warning about presence of the bubbler.
 - f. A nonrefundable application fee for such permit in an amount to be set by resolution of the Township Board.

The permit applications and attachments shall be provided to the Planning Commission for review and approval. If approved, the Planning Commission shall issue a Porter Township Permit which shall be valid for eight consecutive months from date of issue

2. Permit applications shall be made annually. An owner or occupant of eligible property for which a bubbler permit has been granted shall adhere to the following restrictions:
 - a. Bubblers shall only be placed in the approved location and manner.
 - b. A separate permit is required for each bubbler on a parcel

c. No bubbler shall be placed such that more 5 lineal feet (60 inches) of water/ice away from the permanent pier, boat or other structure protected by the bubbler is disrupted.

d. No bubbler shall be authorized to be operated without a permit.

e. The owner/operator of a premises upon which a permitted bubbler system is operated shall provide all of the following within 100 feet of such bubbler, in a manner marked and visible to the public prior to turning on a permitted bubbler system for the season:

1. A lightweight ladder at least 10 feet in length:

2. A 20-foot-long light-aluminum or other lightweight metal pole for rescue purposes.

3. A buoyant life preservation ring with at least 50 feet of attached rope suitable for cold weather use.

f. The owner/operator of a premises upon which a permitted bubbler system is operated shall place and maintain on either side of an on the end furthest from the shore or pier being protected by the bubbler system signs of at least 9 square feet in area with the following warning "Danger, open water or thin ice". Such signs shall be maintained throughout the season whenever the bubbler is operated

g. No bubbler, including a permitted bubbler may disturb any water or ice formation beyond the ordinary high-water line, if one is established for the body of water in which such bubbler is authorized. In case of a conflict between this section and 2.c., the more restrictive shall control.

h. The bubbler system shall not be operated in such a manner as to unreasonably interfere with the riparian rights of the owners or other lakefront properties on Porter Township Lakes, including the owners of all riparian or waterfront properties located within 500 feet of an authorized bubbler system.

i. The bubbler system shall not be operated in such a manner as to cause significant negative impacts on the environment and economy of the lakes or lake waterfowl and fauna.

Section 6 SEVERABILITY

If any sentence, section, paragraph or part of this Ordinance is determined to be unconstitutional or unenforceable by a court of competent jurisdiction, it shall be severed from the remainder of the Ordinance and such determination shall not affect the remainder of the Ordinance which shall remain valid and in effect.

Section 7 PENALTIES; ENFORCEMENT

A. A violation of this Ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than one hundred dollars (\$100.00) for the first offense and

not less than two hundred dollars (\$200.00) for subsequent offenses, in the discretion of the court, in addition to all other costs, damages, expenses and remedies provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense

B. Anyone who fails to conform to the bubbler specification and placement as applied for under their bubbler permit in violation of this Ordinance, shall also be deemed to be in violation of this Ordinance.

C. Anyone who assists another in violating this Ordinance, or who aids and abets another in violation of this Ordinance, shall also be deemed to be in violation of this Ordinance

D. In addition to the above-mentioned remedies, the Township is also authorized (at its option and discretion) to pursue a civil lawsuit to enforce and/or ensure compliance with the Ordinance in Cass County Circuit Court. The remedies and penalties provided in this Ordinance are cumulative and exclusive

E. This Ordinance may be enforced by the Township Zoning Administrator, the Township Building Inspector, the Township Zoning Enforcement Officer, a Deputy County Sheriff, and such other township officials or agents as the Township Board may designate from time to time by resolution

F. A violation of this Ordinance is also hereby declared to be nuisance *per se* (which should be abated) and is also declared to be offensive to the public health, safety and welfare.

Section 8

EFFECTIVE DATE

This ordinance shall take effect upon the expiration of thirty (30) days after its publication (or a summary thereof) in the manner provided by law.

Beth Russell
PORTER TOWNSHIP CLERK